

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AMERICAN CRUISE LINES, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 13-324 (RGA)
)	
HMS AMERICAN QUEEN STEAMBOAT)	Redacted Public
COMPANY LLC, and AMERICAN QUEEN)	Version
STEAMBOAT OPERATING COMPANY,)	
LLC,)	
)	
Defendants.)	

**DECLARATION OF CHARLES B. ROBERTSON
IN SUPPORT OF
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

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December 20, 2016

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I, Charles B. Robertson, being over the age of eighteen (18) and competent to testify to the matters herein, state as follows:

1. I am a Vice President and Director of Marketing for American Cruise Lines, Inc. ("American"). Except to the extent my knowledge is based on regular course of business records kept at our corporate headquarters in Connecticut, I have personal knowledge of the matters set forth in this Declaration and I am competent to testify regarding these matters.

2. Unless otherwise noted, all of the documents attached as Exhibits to this Declaration (sometimes referred to as "CBR Dec Ex") are true and accurate copies of documents maintained at the American offices in the course of its regularly conducted business activity.

3. As we use our logo on our website, and consistently on our marketing, the first word "American" in the mark is emphasized by being printed in larger font and in a different color

than the words “cruise lines” and the patriotic theme is emphasized by printing the design brand mark in red, white, and blue:



<http://www.americancruiselines.com/> (last accessed 12/10/16). The appearance of American’s trademarked logo is used consistently in all our written advertising.

4. American uses its social media sites to post videos, photographs, and other information about the company and its cruise services, as well as general news about the cruise industry, U.S. history, and to maintain dialogues with past and prospective passengers as well as travel agents.

5. [REDACTED]

[REDACTED].

6. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. American Cruise Lines attempts to educate members of the public and travel agents about the difference between American and AQSC. Nevertheless, there is confusion among some members of the public and some travel agents. Passengers aboard the *American Queen* have even returned their room keys to American Cruise Lines.

8. Exhibit 1 is a copy of the American Cruise Lines website containing the American Cruise Lines logo as it was pictured on the website in 1999, captured and saved by the Internet Archive Wayback Machine, accessed on December 14, 2016 (<https://web.archive.org/web/19991128123813/http://www.americancruiselines.com/>).

9. Exhibit 2, ACL 1067-1086, is a copy of American's 2000-2001 cruise brochure entitled "American Cruise Lines: Voyages Through America's Waterways."

10. Exhibit 3, ACL 48509-48515, is a copy of a travel industry web article published on the website Cruise Critic entitled "American Cruise Lines," (<http://www.cruisecritic.com/reviews/cruiseline.cfm?CruiseLineID=57>), accessed June 28, 2016.

11. Exhibit 4, ACL 48516-48517, is a copy of a travel industry a web article, published on the website Cruise Evolution, entitled "American Cruise Lines," (<http://www.cruisevolution.com/reviews/american/index.html>), accessed June 28, 2016.

12. Exhibit 5, ACL 48524-48529, is a copy of a travel industry web article, published on the website Cruise Select, entitled "American Cruise Lines," (<http://www.cruiseselect.co.uk/cruise-lines/american-cruise-line/>) accessed June 28, 2016.

13. Exhibit 6, ACL 48599-48601, is a copy of a travel industry web article, published on the website Frommer's, entitled "American Cruise Lines," (<http://www.frommers.com/macrosite/cruises/american-cruise-lines>), accessed June 28, 2016.

14. Exhibit 7, ACL 46808, is a copy of an advertisement published April 12, 1999 by American in *Travel Weekly*.

15. Exhibit 8, ACL 46809, is copy of an advertisement published by American in *Yankee*.

16. Exhibit 9, ACL 46816, is a copy of an advertisement published by American in *Travel Weekly*.

17. Exhibit 10, ACL 46869, is a copy of an advertisement published by American in *Yankee Magazine*.

18. Exhibit 11, ACL 46871, is a copy of an advertisement published by American in *Yankee Magazine*.

19. Exhibit 12, ACL 46868, ACL 46870, are copies of advertisements published by American in *Travel & Leisure*.

20. The following publications refer to American Cruise Lines as “American:” (1) Exhibit 13, ACL 20170, a copy of a newspaper article published in *Travel Agent* on April 25, 2005 entitled “American’s New Spirit,” (2) Exhibit 14, ACL 20152, is a copy of a newspaper article published in the May 2006 edition of *Cruise Agent* entitled “Sailing U.S. Waters – American Cruise Lines’ Charles Robertson Talks About Growing His Three Ship Fleet,” (3) Exhibit 15, ACL 20161-20169, is a copy of a web article published in the *New York Times* on February 14, 2010 entitled “Offering Whatever Floats Your Boat” (<http://travel.nytimes.com/2010/02/14/travel/14journeys.html?pagewanted=print>), (4) Exhibit 16, ACL 20171-20172, is a copy of a web article published on the travelagentcentral.com website on March 16, 2010 entitled “Small Ship Cruising: Something for Everyone,” accessed on January 24, 2011, (5) Exhibit 17, ACL 20158, is a copy of a web article published in the *Los Angeles Times* on June 15, 2011 entitled “Queen of the West, a born-again riverboat, returns to the Columbia and Snake” (<http://latimes.com/travel/deals/la-trb-queen-of-the-west-cruise-20110610,1,7688459.story>), accessed on June 15, 2011, (6) Exhibit 18, ACL 20153-20157 at ACL 20156 (listing cruise lines by first word of name), is a copy of a magazine article published in the January/February 2015 edition of *Cruise Travel* entitled “2015 Annual Directory Issue,” (7) Exhibit 19, ACL 49588-49593 at ACL 49590, is a copy of a web article published on the travelagentcentral.com website on July 25, 2016 entitled “Newest Top Tips for Selling River

Cruises” (<http://www.travelagentcentral.com/river-cruises/newest-top-tips-selling-river-cruises-57288>).

21. [REDACTED]

22. [REDACTED]

23. Exhibit 22, ACL 1123-1150, is a copy of American’s 2001-2003 cruise brochure entitled “American Cruise Lines: Voyages Through America’s Smooth Waters.”

24. Exhibit 23, ACL 48920-48951, is a copy of American’s 2002-2004 cruise brochure entitled “American Cruise Lines: Voyages Through America’s Smooth Waters.”

25. Exhibit 24, ACL 49308-49339, is a copy of American’s 2004-2005 cruise brochure entitled “American Cruise Lines: Voyages Through America’s Smooth Waters.”

26. Exhibit 25, ACL 48998-49024, is a copy of American’s 2011-2012 cruise brochure entitled “American Cruise Lines: Small Ship Cruising Done Perfectly – The World’s Newest Fleet of Cruise Ships.”

27. Exhibit 26, ACL 49025-49059, is a copy of American’s 2012-2013 cruise brochure entitled “American Cruise Lines: Small Ship Cruising Done Perfectly™ ”

28. Exhibit 27, ACL 48705-48804, is a copy of American's 2016-2017 cruise brochure entitled "American Cruise Lines: Small Ship Cruising Done Perfectly™"

29. American initially offered cruises aboard its first ship, *American Eagle*, along the coast and islands of New England, the Chesapeake Bay, Hudson River, the Intracoastal Waterway from South Carolina to Florida, and the Okeechobee Waterway in Florida. CBR Dec Ex 2. In 2001 American Cruise Lines expanded itineraries to include cruises along the St. John's River in Florida and other Southern waterway cruises. CBR Dec Ex 22 at ACL 01128-29. In 2002 American began sailing its second ship, the *American Glory*, and expanded itineraries north to include Maine coasts and harbors, began offering a Long Island Sound cruise, and expanded cruise offerings along the Chesapeake Bay. CBR Dec Ex. 23. In 2005, American began to operate its third ship, the *American Spirit* and continued to expand itineraries along the East Coast, rivers, and other waterways. CBR Dec Ex 24. By 2010-2011, American was operating the *Queen of the West* on the Columbia and Snake Rivers and organizing its itinerary and accepting reservations for its new Mississippi riverboat. CBR Dec Ex 25 at ACL 49004, 49018. By 2012, American had further developed the itinerary for its new Mississippi riverboat, *Queen of the Mississippi* (later renamed *American Pride*), and had expanded into cruising the Puget Sound, the San Juan islands and to providing cruises on Alaska's inside passage. CBR Dec Ex 26 at ACL 49033-35, 49039. By 2015, the *American Eagle* (later renamed *Queen of the Mississippi*) was added to the fleet and by 2016, the vessel *America* was added. CBR Dec Ex 27.

30. [REDACTED]

31. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

32. American Cruise Lines advertises nationally and internationally using digital media platforms, including American's website launched in 1999 (<http://www.americancruiselines.com>) and social media sites such as Facebook (<https://www.facebook.com/americancruiselines>), Twitter (https://twitter.com/american_cruise), Google Plus (<https://plus.google.com/+americancruiselines>), and YouTube (<https://www.youtube.com/user/americancruiselines>).

33. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Exhibits 29 and 30 are copies of the landing pages for American's YouTube, <https://www.youtube.com/user/americancruiselines> and Facebook, <https://www.facebook.com/americancruiselines> webpages as of December 14, 2016, respectively.

34. American Cruise Lines' YouTube page lists approximately four dozen videos posted by American over the years, beginning in 2010, and as of December 14, 2016 reflects over 112,000 views. CBR Dec Ex 29. The second to last video listed in the Exhibit titled "American Cruise Lines – Launching of Queen of the Mississippi 2011." As reflected in the YouTube page, this video was uploaded on August 8, 2011 and shows the construction and launch of the vessel.

35. [REDACTED]

36. [REDACTED]

37. [REDACTED]

38. Exhibit 34, ACL 48901, is a copy of a postcard advertisement issued by American entitled "Paddlewheel Cruising along the Columbia & Snake Rivers."

39. [REDACTED]

40. [REDACTED]

41. Exhibit 37, ACL 48277, is a copy of an American press release dated September 21, 2010 announcing a new Mississippi sternwheeler to operate on the Mississippi River beginning in 2012.

42. Exhibit 38, ACL 47212, is a copy of an American advertisement published in the October 2010 edition of *Agent at Home* entitled “Brand New Paddlewheeler to the Mississippi River.”

43. Exhibit 39, ACL 47217, is a copy of an American advertisement published in the November/December 2010 edition of *Preservation Magazine* entitled “Brand New Paddlewheeler to the Mississippi River.”

44. Exhibit 40, ACL 20323-20326, is a collection of copies of emails sent by American on March 3, 2011 and March 9, 2011.

45. Exhibit 41, ACL 01713, is a copy of an American advertisement placed in the August 2011 edition of *Southern Living Magazine* entitled “Riverboatin’ on the Mississippi”.

46. [REDACTED]

47. [REDACTED]

48. [REDACTED]

49. [REDACTED]

50. [REDACTED]

[REDACTED]

[REDACTED].

51. [REDACTED]

[REDACTED].

52. [REDACTED]

[REDACTED].

53. Exhibit 49, ACL10139-10146, is a copy of a message board on the Cruise Critic travel website, entitled “American Cruise Lines – ‘Queen of the Mississippi’” (<http://boards.cruisecritic.com/showthread.php?t=1704359.html>), accessed on November 6, 2013.

54. [REDACTED]

[REDACTED]

55. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

56. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

57. [REDACTED]

58. [REDACTED]

59. [REDACTED]

60. [REDACTED]

61. [REDACTED]

62. Exhibit 58, ACL 50104-50106, is a copy of a web article published on the website Travel Pulse, entitled “American Queen Steamboat Company Rolling out American Duchess Next June” (<http://www.travelpulse.com/news/cruise/american-queen-steamboat-company-rolling-out-american-duchess-next-june.html>), accessed on September 16, 2016.

SIGNATURE PAGE TO FOLLOW

Pursuant to 28 U.S.C. § 1746, I declare under the penalties of perjury that the foregoing is true and correct.

Executed in Guilford, CT, this 20th day of December, 2016.



—
Charles B. Robertson